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Secretary's Office

1990 M Street N.W.

Washington, D.C. 20554

Re: CS 96-83

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Dear Secretary,

We would like to file for a declaratory ruling and request that the FCC step in to help us solve our problem.

We have a small satellite dish (DSS) attached to the front of our townhouse which has caused major problems with our HOA. We understand that the new law concerning these dishes does not take affect until October 4, 1996, however, it appears that our HOA is going to pursue this issue beyond that date.

When we first tried to have a dish installed, we contacted Primestar for installation, an installer came to our house and we requested that they attach the dish to the roof, we were told that they would not go onto our roof and that the only place it could go in the rear of our dwelling and pick up a signal was so far out in the rear of the yard that it would be located in the common area, which is a storm drainage field. We then contacted the main office of Primestar and requested that they send another installer whose company would do roof mounts. Another installer came out and he stated that while he would do roof mounts that the dish would not pick up the signal from the rear of our roof, he stated that it would have to go in the front of our dwelling. He started to put it in the middle of our front yard and we stopped that for fear of a child playing with it plus the fact that it would be very unsightly. We asked this gentleman if we purchased our own dish could he install it elsewhere then the front yard. He said that he still could not install it in the rear but he could install a smaller dish to the front of the house. The dish was eventually installed near the roof line at the front.

A few months later we received a letter from our property managers office stating that the dish would have to be moved to the rear of the house or proof provided that it could not pick up a signal from there. Since the company that installed the dish is located over 200 miles away we called a local installer to come out and do a site survey. He also refused to go onto our roof but did state that he thought that he could move it to the peak of our roof. The dish would still be visible from the street and it would also be more susceptible to lightening if placed there. He also stated that he did this type of work on a part time basis and that he himself would not venture onto our roof but he would find somebody to bring with him to go up there if we decided to move it. We thought about it

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for several weeks and decided that since it would still be visible from the street that we would leave it where it was. We also considered the consequences of having a person who did this part time and bringing others whose qualifications we did not know access to our roof. The thought of a lawsuit should one of them get hurt or at the very least damage done to our roof was considered in our decision not to move the dish.

On September 21st while outside of my home I (Mary Thweatt) was approached by the President of our HOA, David Gilliam, who stated to me that he *KNEW* for a fact that our dish could be put on the rear roof of our house. I asked him when he had been on our roof and he stated that he didn't have to go onto our roof to know this information. He also stated that I would be fined everyday that I did not submit for architectural approval from the board. A request they have made clear that they have no intention of approving.

Since that time I have been waiting for our official letter telling us that we are being fined. As of today we have not received it. I then called our property managers office and asked if a letter would be forthcoming and was informed that he had been contacted by our President, however, he told them that until fines and infractions were put into writing by our Board of Directors that he could not send out any letters. He did inform me that he expected our Board of Directors to do this and that a letter then would be sent to me informing me of the fines, even after the October 4th date that this order takes affect.

According to CS 96-83, after October 4th they cannot require us to request architectural approval to install this dish, as that would cause a delay in installation. Also, that it is their responsibility to prove that what they are trying to enforce is a valid enforcement. Our President informed me that he didn't have to prove a thing to me.



If we understand CS 96-83 correctly, they can require that we move the dish to the rear of the roof if it will still pick up the satellite signal and that by moving the dish that it would not be seen from the street. It is also our understanding that they can require that we paint the dish to blend into the background, however, we have not been able to find any paint that can be used on this dish. Since the only place on our roof that the dish can pick up the signal is the peak of the roof we would not be accomplishing the act of hiding the dish from the street by moving it.

Please help us in settling this matter with our HOA.

Our HOA and President are: The Townes of Ashleigh HOA  
David Gilliam, President  
302 Fair Oaks Avenue  
Stafford, Virginia 22554  
540-720-6661

The property management company is: Zeiders Enterprises, Inc.  
3421 Commission Court  
Suite 101  
Woodbridge, Virginia 22192  
703-494-8964  
Tim Bixon - contact person

Thank you for your help with this issue.

  
  
Ray and Mary Thweatt  
106 Castlebury Court  
Stafford, Virginia 22554  
540-659-7756